

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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CHESTER V. JONES,

Case No. 22-CV-2144 (WMW/JFD)

Petitioner,

v.

**REPORT AND RECOMMENDATION**

KEITH ELLISON,

Respondent.

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In an Order and Report and Recommendation dated December 8, 2022, this Court ordered Petitioner Chester V. Jones to submit an amended habeas petition to the Court if he wished to challenge a 2005 delinquency adjudication. (Dkt. 22 at 8.) The Court gave Mr. Jones 30 days—until January 7, 2023—to file an amended petition and warned that the Court would recommend dismissing this action without prejudice for failure to prosecute if Mr. Jones failed to comply. (*Id.* at 9.)

That deadline has now passed, and Mr. Jones has not filed an amended petition. Accordingly, this Court now recommends, in accordance with its prior Order and Report and Recommendation, that the remainder of this action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See, e.g., Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT** the remaining portion of this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: January 18, 2023

John F. Docherty

JOHN F. DOCHERTY

United States Magistrate Judge

### NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).